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In re Application of
Ronald WENDENBURG et al
Application No.: 09/869,951
PCT No.: PCT/EP00/10808
Int. Filing Date: 02 November 2000
Priority Date: 10 November 1999
Attorney Docket No.: GK-ZEI-3130
For: SYSTEM FOR INTRODUCING OPTICAL
TWEEZERS AND/OR A TREATMENT BEAM
INTO A MICROSCOPE

NOTIFICATION OF

DEFECTIVE RESPONSE

This application is before the PCT Legal Office for consideration of matters under 35 USC 371.

BACKGROUND

On 02 November 2000, applicants filed international application No. PCT/EP00/10808, which claims a priority date of 10 November 1999. No Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 10 July 2001.

On 09 July 2001, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter (Form PTO-1390) accompanied by, *inter alia*, the basic national fee. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because an executed oath or declaration was not provided.

On 10 September 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), properly identifying the application (preferably by the International application number and international filing date) ... must be submitted within two months from its 10 September 2001 date of mailing or by 22 months from the priority date, whichever is later. Failure to properly respond will result in abandonment."

On 10 December 2001, applicants submitted an executed declaration of the inventors. In the declaration section pertaining to the second named inventor, the name Anja MICHELMANN appears; this name did not appear in the international application. In addition, the declaration has been signed by "Anja MICHELMANN."

DISCUSSION

The declaration of the inventors is not acceptable at this time, in that the name of the second named inventor, Anja MICHELMANN, does not correspond to that set forth in the international application, Anja HOFFMANN. MPEP § 605.04(c) requires in instances where an inventor has changed his or her name after the application has been filed to submit a petition under 37 CFR 1.182. The petition must include (1) the appropriate petition fee and (2) an affidavit signed with both names setting forth the procedure whereby the change of name was effected, or a certified copy of the court order.

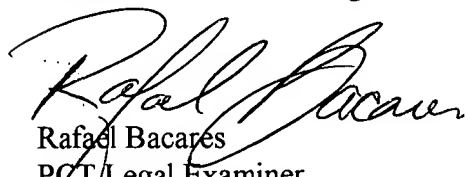
Applicant has must provide items (1) and (2) for consideration. Alternatively, applicants may provide a showing that the name change was effected in accordance with PCT Rule 92Bis prior to the filing of the present national stage application.

CONCLUSION


For the reasons above, the application may not enter into national stage processing at this time.

A proper response to the Notice of Defective Response must be filed within ONE (1) MONTH from the mail date of this decision or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five (5) months.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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